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***SURFACE TRANSPORTATION BOARD***

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

Sept. 13, 2004

David G. Hawkins  
Natural Resources Defense Council  
1200 New York Avenue, NW  
Suite 400  
Washington, DC 20005

Re: Finance Docket No. 33407, Dakota, Minnesota & Eastern Railroad Corp.,  
Powder River Basin Expansion Project

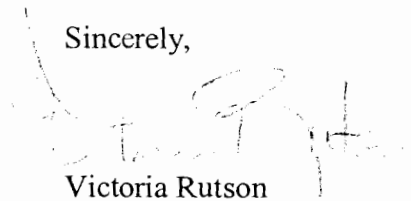
Dear Mr. Hawkins:

I have received your letter of September 2, 2004, requesting that the Board's Section of Environmental Analysis (SEA) initiate a scoping process for the Supplemental Environmental Impact Statement ("Supplement") that SEA is preparing pursuant to the court remand in Mid States Coalition for Progress v. STB, 345 F.3d 520 (8<sup>th</sup> Cir. 2003).

As you may know, the regulations of the President's Council on Environmental Quality implementing NEPA do not require scoping for a supplement. See 40 CFR 1502.9(c)(4) ("Agencies shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council"). Moreover, the court's remand in this case was narrow, and the court expected that on remand the Board "will quickly address those few matters that we have identified as requiring a second look, and will come to a well informed and reasonable conclusion." 345 F.3d at 556.

The Board intends to comply with the court's remand as faithfully, fairly, and expeditiously as possible. Both a Draft Supplement and a Final Supplement will be issued. Thus, as part of the process, there will be ample opportunity at the appropriate time for public review and comment on all aspects of the supplemental analysis, including the methods and assumptions used.

Sincerely,



Victoria Rutson  
Chief

Section of Environmental Analysis